



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

August 28, 1998

Ms. Tina Morales  
Senior Records Analyst  
Office of the District Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR98-2066

Dear Ms. Morales:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117554.

The Travis County District Attorney's Office (the "district attorney") received a request for information from an attorney representing an individual and his father. The attorney seeks records about a criminal investigation into the sexual abuse of the represented individual. *The request specifically includes any documents obtained from or concerning the Texas School for the Deaf.* You assert that the records are confidential under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. Section 552.101 provides that information is excepted from required public disclosure if it is confidential by law. Subsection (a) of section 261.201 provides:

(a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with . . . [the Family] Code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under . . . chapter [261 of the Family Code] and the identity of the person making the report; and

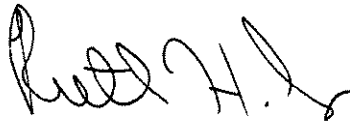
(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under . . . chapter [261 of the Family Code] or in providing services as a result of an investigation.

The information at issue consists of records used or developed in an investigation made under chapter 261 of the Family Code. Thus, these documents may be disclosed only

for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by the investigating agency. If, as it appears, the district attorney is an investigating agency, the documents at issue may be disclosed only if the district attorney has adopted rules regulating disclosure.<sup>1</sup> If the department has rules providing for de-identification of victim identities and release of the investigation information to certain individuals, then such a release is appropriate under section 261.201(a). However, you have not notified this office that the district attorney has adopted rules regulating release of these types of investigation records. If the district has no such rules governing access, the records at issue are confidential in their entirety and may not be released.<sup>2</sup> As the records at issue must be withheld from disclosure under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code, we need not address your other arguments against disclosure.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

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<sup>2</sup>We note that the file at issue contains records of the Department of Protective and Regulatory Services (the "department"). Section 261.201(f) provides that the department, upon request and subject to its own rules:

shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect information concerning the reported abuse or neglect that would otherwise be confidential under this section if the department has edited the information to protect the confidentiality of the identity of the person who made the report and any other person whose life or safety may be endangered by the disclosure.

We also note that if the Texas School for the Deaf (the "school") has investigation records and the allegations involved a student, such records may be accessible upon request and subject to the school's rules. *See* Fam. Code § 261.003 ("this chapter applies to the investigation of a report of abuse or neglect of a student" at the school); 40 T.A.C. § 753.503(1)(C) (requiring the school to adopt rules concerning investigation records of "reports of abuse, neglect, or exploitation of students").

RHS/ch

Ref: ID# 117554

Enclosures: Submitted documents

cc: Mr. A. Boone Almanza  
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(w/o enclosures)